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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

COLETTA, LORI L

ART UNIT

PAPER NUMBER

3612

DATE MAILED: 02/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/081,752

Applicant(s)

VISMARA ET AL.

Examiner

Lori L. Coletta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 27 December 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the **bumper** (claim 3) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Objections*

2. Claim 3 is objected to because of the following informalities:

Regarding claim 3, "curved bumpers" (lines 3-4) needs to be changed to --curved bumper--.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3, 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 3, "a centrally-placed absorber system" (lines 5 and 6) is not clear. What is positively recited by a centrally-placed absorber system?

Regarding claims 6 and 7, “cross member (17A) is made of metal or plastic and is flat or shaped” (lines 2-3) is not clear. Claim 1 states “a substantially linear front cross member (17A)” (line 2) which means the front cross member is straight (flat). How can the front cross member be “shaped” when claim 1 states “a substantially linear front cross member (17A)”?

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1, 3, 6 and 7, as understood, are rejected under 35 U.S.C. 102(a) as being anticipated by Braun 6,290,272

Regarding claim 1, Braun ‘272 discloses a protective structure for vehicles, characterized in that it comprises a substantially linear front cross member (2) comprising a unitary fillable internal chamber, and featuring at least one underlying laterally-placed first absorber (1), connected externally after the cross member (2) on the bumper side (3) of the vehicle in Figure 1. It is inherent that the front cross member (2) is connected to lateral side members.

Regarding claim 3, Braun ‘272 discloses the protective structure for vehicles, characterized in that said cross member (2) has a substantially straight geometrical structure which is fitted with curved bumper (3) conforming in shape to said underlying laterally-placed first absorbing element (1) interposed between said bumper and said cross member in Figure 1.

Regarding claims 6 and 7, Braun ‘272 discloses the protective structure for vehicles characterized in the said cross member (2) is flat in Figure 1. It is inherent that the cross member

(2) is made of metal or plastic. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself.

The patentability of a product does not depend on its method of production (produced from an extruded linear profile or moulding and welding).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braun 6,290,272 in view of Shiotani et al. 3,842,944.

Regarding claims 2 and 5, Braun '272 discloses the protective structure for vehicles.

However, Braun '272 does not show inside said cross member, at least one second absorber element is present, increasing the collapsing force of the cross member and therefore the energy absorbed and, simultaneously, limiting the overall dimensions of the entire structure (claim 2); and said first underlying absorber element and said second absorber element comprise absorbing materials selected from the group consisting of extruded thermoplastic honeycomb, honeycomb made of aluminum, polyurethane foam, foamed polypropylene, rigid polyurethane, semi-rigid polyurethane and extruded polyurethane (claim 5).

Shiotani et al. '944 teach a hollow shock absorber structure filled with a foamed aluminum.

Regarding claims 2 and 5, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the cross member of the protective structure of Braun '272 filled with a foamed aluminum, as taught by Shiotani et al. '944, in order to increase the energy absorbing efficiency.

Regarding claim 4, Braun '272, as modified, discloses the protective structure for vehicles characterized in that said underlying laterally-placed first absorber element and said second absorber element are made of materials deformation pressures of 5-30 N/mm<sup>2</sup> which correspond to a crushing of 50%.

#### *Response to Arguments*

9. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection.

#### *Conclusion*

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lori L. Coletta whose telephone number is (703) 306-4614.

The examiner can normally be reached on Monday-Friday 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (703) 308-3102. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3597 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1134.

llc  
llc  
January 29, 2003



2/3/03

D. GLENN DAYOAN  
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